

\*E-Filed 1/13/12\*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ELVIN RAY BUCK,  
Plaintiff,

v.

JERICOHO PROJECT, INC.,  
Defendant.

No. C 11-4711 RS (PR)

**ORDER DISMISSING COMPLAINT  
WITH LEAVE TO AMEND**

**INTRODUCTION**

This is a federal civil rights action filed pursuant to 42 U.S.C. § 1983 by a *pro se* state prisoner. The Court now reviews the complaint pursuant to 28 U.S.C. § 1915A(a).

**DISCUSSION**

**A. Standard of Review**

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. *See* 28 U.S.C. § 1915A(a). In its review, the Court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may

No. C 11-4711 RS (PR)  
ORDER DISMISSING COMPLAINT

1 be granted or seek monetary relief from a defendant who is immune from such relief. *See id.*  
 2 § 1915A(b)(1),(2). *Pro se* pleadings must be liberally construed. *See Balistreri v. Pacifica*  
 3 *Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988).

4 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim  
 5 to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009)  
 6 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial  
 7 plausibility when the plaintiff pleads factual content that allows the court to draw the  
 8 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting  
 9 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal conclusions  
 10 cast in the form of factual allegations if those conclusions cannot reasonably be drawn from  
 11 the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55 (9th Cir. 1994).  
 12 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:  
 13 (1) that a right secured by the Constitution or laws of the United States was violated, and  
 14 (2) that the alleged violation was committed by a person acting under the color of state law.  
 15 *See West v. Atkins*, 487 U.S. 42, 48 (1988).

#### 16 **B. Legal Claims**

17 Plaintiff alleges that employees of Jericho Project, Inc., a “long term treatment  
 18 program” to which plaintiff was assigned by court order, violated his First Amendment  
 19 rights. Plaintiff has not stated a claim for relief that is plausible on its face. First, plaintiff  
 20 has failed to give an address or other identifying information for the Jericho Project. Without  
 21 such information, the Court cannot order service of the complaint, nor determine whether the  
 22 Project is an appropriate defendant in a § 1983 action. Second, plaintiff fails to give specific  
 23 details, including the names of persons who allegedly violated his rights, the dates on which  
 24 such alleged violations occurred, or other clear information regarding the incidents. Alleging  
 25 that unnamed staff at the Project were responsible for the violations is insufficient. Third,  
 26 plaintiff must sign the complaint. His signature is his attestation under penalty of perjury  
 27 that all information in the complaint is true and correct.  
 28

Accordingly, the complaint is DISMISSED with leave to amend. Plaintiff shall file an amended complaint within 30 days from the date this order is filed. The first amended complaint must address all the deficiencies listed above, and include the caption and civil case number used in this order (11-4711 RS (PR)) and the words FIRST AMENDED COMPLAINT on the first page. Because an amended complaint completely replaces the previous complaints, plaintiff must include in his first amended complaint *all* the claims he wishes to present and *all* of the defendants he wishes to sue. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Plaintiff may *not* incorporate material from the prior complaint by reference. Failure to file an amended complaint in accordance with this order will result in dismissal of this action without further notice to plaintiff.

It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court informed of any change of address by filing a separate paper with the clerk headed "Notice of Change of Address." He must comply with the Court's orders in a timely fashion or ask for an extension of time to do so. Failure to comply may result in the dismissal of this action pursuant to Federal Rule of Civil Procedure 41(b).

**IT IS SO ORDERED.**

DATED: January 13, 2012

  
RICHARD SEEBORG  
United States District Judge